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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,483	11/12/2003	Forrest B. FencI	S002-P02005US	7587
33356	7590	01/24/2006	EXAMINER	
SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362			MCKANE, ELIZABETH L	
			ART UNIT	PAPER NUMBER

1744

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

an

Office Action Summary	Application No. 10/706,483	Applicant(s) FENCL ET AL.	
	Examiner Leigh McKane	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37,42,43,45-50,55,56,58 and 61-71 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 1-32,42,43,45,55,56,58 and 61-71 is/are allowed.
 6) ☒ Claim(s) 33-37 and 46-50 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>113005</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-37 and 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz et al. (U.S. Patent No. 5,660,719) in view of Block (*Disinfection, Sterilization, and Preservation*, 4th edition).

With respect to claims 33, and 46-49, Kurtz et al. teaches a germicidal system resistant to environmental exposure wherein the system includes a conventional germicidal tube 20, a power supply 32 receiving power from an external source (col.5, lines 3-11) and providing power to the tube 20, an electrical interface 95,96 electrically connecting an electrode of the stem and the power supply via plural wires 93 (Figure 5) and located within lower compartment 14, a fixture 10 supporting the power supply and the germicidal tube, a cover 24 adapted to ruggedize the electrical interface comprising, a stainless steel exterior surface. Ventilation holes 28 are covered by shrouds 30,31 and a filter, to prevent "unwanted foreign objects" from entering the interior of the fixture. See col.5, lines 21-24. The instant claims require

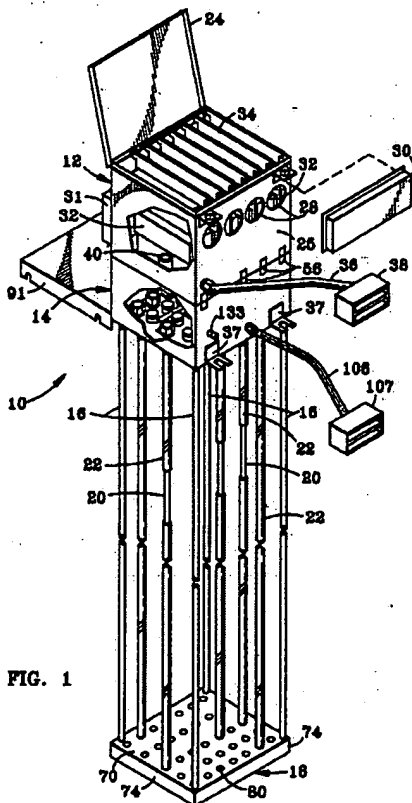


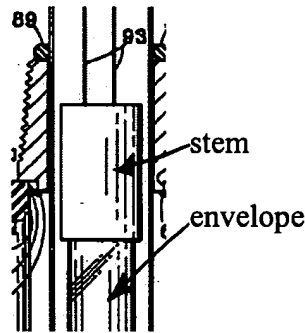
FIG. 1

only that the electrical interface and power supply be protected from a single environmental condition, such as "falling dirt" or "windblown dust." The shroud of

Art Unit: 1744

Kurtz et al. would certainly protect the enclosure from falling dirt or windblown dust. It is noted that the independent claims do not require a liquid tight or air tight seal.

Although Figure 5 of Kurtz et al depicts a tube having an envelope and stem, there is no disclosure that the germicidal tube includes a gas enclosed by the envelope and stem.



Block discloses that the “most practical method of generating UV radiation is by passage of electric discharge through low-pressure mercury vapor enclosed in special glass tubes, known commercially as germicidal lamps.” See page 555, first paragraph under “Germicidal Lamps”.

It is deemed obvious to one of ordinary skill in the art to use a gas (mercury vapor enclosed) by the envelope and stem of Kurtz et al, as this is “the most practical method of generating UV radiation.”

As to claims 34 and 36, the cover 24 is coupled by a hinge 26 to the fixture 10 to enclose the electrical interface.

With respect to claim 35, Kurtz et al discloses that each compartment serves “as an individually sealed and isolated area”. See col.2, lines 1-9 and lines 32-37; col.5, lines 32-35; col.6, lines 3-4.

Art Unit: 1744

As to claims 37 and 50, Kurtz et al teaches that the fixture is formed of stainless steel and is “intended for indoor or outdoor use”. Absent further limitations, the Examiner takes the position that stainless steel is “thick and rigid.”

Allowable Subject Matter

3. Claims 1-32, 42, 43, 45, 55, 56, 58, 61-71 are allowed.
4. The following is an examiner’s statement of reasons for allowance: The combination of Kurtz et al with Block or Wiesmann fails to teach or suggest: a) an electrical connector which engages at least one electrode in the stem of the tube *when the tube holder/supporting means engages the stem*; b) a UVC unit that can withstand skin-effect cooling in an air flow of between 200 and 600 cfm at between 30 and 65 °F; c) the combination of cover, base, and tube holder as set forth in claims 1 and 22, wherein the base includes means for tube installation and means for sealing on a lower surface to a wall; d) tube having a flanged stem; or e) an air handling or HVAC system employing the germicidal lamp, as Kurtz et al is disclosed to be used in a liquid environment.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Response to Amendment

5. Claims 1-32, 42, 43, 45, 55, 56, 58, 61-71 are allowed.
6. Applicant's arguments filed 26 April 2005 have been fully considered but they are not persuasive.
7. Applicant argues that because "Kurtz's top compartment includes openings for air cooling, it necessarily follows that Kurtz's ballast cannot be protected from the environmental condition." However, the instant claims require only that the electrical interface and power supply be protected from a single environmental condition, such as "falling dirt" or "windblown dust." The shroud of Kurtz et al. would certainly protect the enclosure from falling dirt or windblown dust. It is noted that the independent claims do not require a liquid tight or air tight seal. Regardless, Kurtz et al. clearly discloses the use of "Appropriate seals (not shown) are provided to insulate top compartment 12 from ambient conditions with the same integrity offered by the seals described below for lower compartment 14." See col.5, lines 32-35. Thus, the combination of the seals and the shrouds would also prevent the entrance of rain, sleet, and snow into the top compartment. It is further noted that the apparatus of Kurtz et al. is used for waste water purification and in order to be safe and UL approved, it would have to achieve a minimum level of water-tightness.

Art Unit: 1744

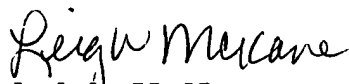
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275.

The examiner can normally be reached on Monday-Thursday (5:30 am-2:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leigh McKane
Primary Examiner
Art Unit 1744

elm
21 January 2006